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Before the
Federal Communications Commission
Washington, D.C.

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In the Matter of	)	
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Review of the Commission's	)	MM Docket No. 91-221
Regulations Governing Television	)	
Broadcasting	)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Commission

COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

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Table of Contents

Summary

The National Association of Broadcasters welcomes the Commission's determination to change outmoded structural rules governing broadcast television. We urge the Commission to act quickly on some of the proposals in the *Notice of Proposed Rulemaking*. In other areas, however, the Commission should act cautiously and await the development of further information before making fundamental changes in its Rules.

The Commission should proceed with reform of the national multiple ownership limits. Although strong arguments exist that the national limits serve no public interest objective in today's market, total deregulation of national ownership may be viewed as imprudent. The Commission instead should take an initial step, leaving further changes until it can evaluate the effect of more limited reforms.

The current national ownership limits should be raised to permit common ownership of up to 18 television stations nationally with an audience reach of up to 30 percent. In devising new rules, the Commission should also continue its policy of permitting additional investment in stations which are minority controlled. These changes will give needed flexibility to group owners who wish to make further investments in television, but who are presently constrained from many transactions because they are too close to the existing national limits.

Increased possibilities of group ownership will also enable groups to take greater advantage of the cost savings group operation provides, helping to offset the declining profitability of many broadcast television stations. Indeed, 1991 data shows

that the decline in television financial performance is continuing. The study submitted by the United Church of Christ purporting to show that savings from group ownership are not translated into improved program service rests on inadequate data, methodological errors, and inappropriate assumptions concerning the Commission's programming expectations for television licensees.

The Commission should amend its duopoly rules to permit common ownership of stations with Grade B overlaps. This change will result in only the possibility of a slight diminution in diversity for some viewers, but will allow some stations to obtain significant efficiencies. Allowing ownership of such slightly overlapping stations will encourage stations to make investments in news and information programming that can be shared across both stations, improving service to both communities.

The Commission should await changing its rule concerning ownership of more than one television station in a community until it has more information about the developing video market. It will be essential for television broadcasters to move to multi-channel operations if they are to succeed in the new video environment, but the Commission should act carefully to ensure that changed rules do not have unintended consequences.

Any revised duopoly rule should take into account all sources of video programming in a community, including public television and cable. Further, the Commission should consider the relationship between changes in the duopoly rules and its proposed HDTV allocation plan. If, as the Commission has suggested, virtually all stations may eventually be moved to the UHF band, it may be unwise to impose limitations on which stations may be involved in a combination. The Commission must also consider the impact of new duopoly rules in smaller markets where only a few stations could acquire other stations and meet the Commission's proposed six "voice" test. Creating competitive disequilibrium in smaller markets would not seem to advance the Commission's objective of strengthening over-the-air television.

Having revised its radio rules to permit greater local common ownership, the Commission should amend the radio-television cross-ownership rule to expand the category of group owners that may take advantage of the liberalized radio ownership rules. The Commission in 1989 found that the cross-ownership rule no longer appeared to serve the public interest, but chose to undertake a limited experiment with waiving the rule in larger markets. Experience with the waiver process has not presented any reason why the Commission should not now amend the rule. NAB proposes that common ownership of radio and television stations in the same market be permitted up to the limits established by the Commission's radio rules, so long as at least 15 independent broadcast media "voices" will remain in the market after any transaction.

The Commission should do away with its rule barring operation of dual television networks, but it should wait to act until more is known about the new technologies such as HDTV and signal compression and the Commission has a better appreciation of the opportunities that will be available for new over-the-air signal distribution.

Finally, the Commission should repeal the rule governing network ownership of stations in small markets. The rule has not been used for decades and no longer appears to serve any public interest objective. The Commission should, however, retain the rule requiring networks without affiliates in a particular market to first offer programming to independent stations in that market before offering programs to affiliates of other networks. This rule may continue enhance the position of UHF independent stations and increase the availability of network programming to consumers.

Before the
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Review of the Commission's Regulations Governing Television Broadcasting	)))	MM Docket No. 91-221

TO: The Commission

COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

The National Association of Broadcasters (NAB)[1/] submits these comments in response to the Commission's *Notice of Proposed Rulemaking* released June 12, 1992. In the *Notice*, the Commission proposes a number of far-reaching changes in the structural rules governing television broadcasting. For the reasons that follow, NAB supports the immediate adoption of some of the changes discussed by the Commission, but suggests that action on other proposals await further study so the Commission has sufficient information to adopt changes to several of its structural rules.

I. The National Ownership Rules

In the *Notice*, the Commission seeks comment on various permutations to its existing 12 station/25 percent audience reach national ownership limitations for television. *See* 47 C.F.R. § 73.3555(d). Of the options presented, NAB urges

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1/ NAB is a nonprofit, incorporated association of radio and television broadcast stations and networks. NAB serves and represents America's radio and television stations and all the major networks.

adoption of new rules that would increase to 18 the number of television stations that could be commonly owned nationally and an increase to 30 percent the total television households those stations could reach.[2] NAB also recommends maintaining an incentive for minority ownership by permitting ownership of interests in up to two additional stations reaching an additional five percent of total television households, if those additional stations are minority controlled. NAB also takes issue with comments which claim that the efficiencies which group owners achieve are not reflected in better service to the public.

A. NAB Supports An Increase In The National Ownership Limits To Eighteen Stations With A Thirty Percent Audience Reach And Continuation of Minority Ownership Incentives

In response to the Commission's *Notice of Inquiry (NOI)* in this docket,[3] NAB submitted comments urging total elimination of the Commission's national ownership limitations for television.[4] To support its position, NAB provided data and other evidence demonstrating that:

1. The relevant market for assessing the Commission's concerns about viewpoint diversity and economic concentration is the local market and

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[2] NAB believes that satellite stations should continue to be exempt from the national multiple ownership rules. *See* Comments of NAB in MM Docket No. 87-8, filed October 10, 1991. The Commission should also continue its present policy of deeming UHF stations to have 50 percent of the audience reach of VHF stations.

[3] *Notice of Inquiry* in MM Dkt. No. 91-221, 56 Fed. Reg. 40847 (August 16, 1991).

[4] NAB Comments in MM Dkt. No. 91-221, filed November 21, 1991 (hereinafter "NAB Comments") at 18-31.

national ownership limits have little impact on local diversity and concentration;

2. The rapid advance of competing technologies, the growth in the number of stations, and the decline in viewership of over-the-air stations all have served to reduce both actual and potential levels of concentration of ownership of television stations to the point where the possibility of any undue national concentration of economic power or ideological influence by a single broadcast owner or group of owners is non-existent;

3. National ownership rules deprive the public of the many benefits of group ownership which result from economies of scale and increased stability in station operations, one of which could be the ability to add to the mix of program diversity; and

4. There is no economic or policy justification for continuing to hobble broadcasters alone with outmoded ownership limits when none of their competitors are similarly constrained.

The data supporting these arguments continue to provide more than ample justification for changes in the national ownership restrictions for television. Increase in the fractionalization of the video marketplace continues unabated. In its comments in response to the *NOI*, NAB noted that the number of full power stations increased from 1,169 stations to 1,488 stations between 1984 and 1991, and that in 1991 there were 968 LPTV stations in operation. The number of full power and LPTV stations has continued to climb to 1,500 stations and 1,284 stations respectively.[5] The number of cable systems also increased from 11,135 systems serving 56.3 million subscribers in October, 1991 to 11,328 systems[6] currently serving 57.2 million subscribers.[7] Cable penetration in May, 1992 increased 2.8 percent from May, 1991.[8]

The number of wireless cable systems has jumped from just 50 systems in 1990 to 241 MDS licensees and 102 multichannel MDS licensees currently.[9] VCR ownership has also continued to rise from 78.2 percent of television households in October, 1991 to 79.8 of television households as of May, 1992.[10]

The adverse impact of this ever-increasing market fractionalization on the television industry is readily apparent. Extrapolations from the results of NAB's newly released Television Financial Report revealed that, in 1991, forty percent of all television stations lost money, more than half of all independent stations each lost at

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5/ *TV Digest*, Aug. 17, 1992, at 6. There are an additional 174 full power television permittees not yet on the air and an additional 1,956 CPs have been issued for LPTV stations. *Television and Cable Update*, Aug. 10, 1992, at 1, 3.

6/ *Id.* at 5.

7/ *TV Digest*, June 29, 1992, at 7.

8/ *Id.*

9/ *TV and Cable Update*, Aug. 3, 1992, at 5, 6.

10/ *TV Digest*, June 29, 1992, at 7.

least $300,000, and twenty five percent of all affiliates each lost at least $475,000.[11] The study also reveals that, to offset lower revenues, stations have been forced to cut spending on engineering, programs and production, and in-house advertising, further demonstrating the need for relaxation of the ownership rules to allow for greater efficiencies.

The claims by some parties[12] that these declining profit figures are merely a temporary phenomenon caused by the current recession, is belied by the fact that cable television operators with their multichannel delivery capability and no multiple ownership limitations continue to thrive despite the recession. Recent figures indicate that cable advertising sales jumped fifteen percent from $2.6 billion to $3 billion between 1990 and 1991, and that ad revenues for 1992 are projected to increase another seventeen percent to $3.5 billion.[13] Moreover, while fragmentation of the marketplace has harmed broadcasters, it has benefitted cable as was reflected by a cable spokesperson who recently observed that: "[a]s the world becomes more fragmented, we have a medium that can target audiences from a demographic, as well as a geographic standpoint".[14]

11/ *NAB/BCFM 1992 Television Financial Report*, cited in *TV Digest*, Aug. 10, 1992, at 1-2.

12/ *See, e.g.*, Comments of the Office of Communications of the United Church of Christ at 11; Reply Comments of TRAC, *et al.*, at 2 in MM Dkt. No. 91-221, filed Nov. 21, 1991 and Dec. 19, 1991, respectively.

13/ *Electronic Media*, June 29, 1992, at 1.

14/ *Id.*, quoting Thom McKinney, President of the Cabletelevision Advertising Bureau.

The greater administrative and other efficiencies that can be obtained by relaxing restrictions on group ownership as well as the enhanced program diversity that can result therefrom have been amply demonstrated in this and the recently completed radio ownership proceeding.[15] CBS, for example, stated that its commonly owned stations have realized significant savings in joint finance, sales, legal and other operations and staffing, joint acquisitions of products, services and programming.[16] CBS also provided specific examples of children's news and public affairs programming jointly created by their owned and operated stations.[17] Group W provided an example of how combined ownership, albeit in the context of joint radio and television operations, lead to more than doubling the news and issue oriented programming it is producing.[18] Recent press accounts report the successes of joint news gathering among the Fox network and its affiliates that has resulted in many Fox affiliates commencing their own local news,[19] a trend which could accelerate were ownership restrictions relaxed.

15/ *Revision of Radio Rules and Policies*, 7 FCC Rcd. 2755, *recon.* __ FCC Rcd. ____ (1992).

16/ Comments of CBS in MM Dkt. No. 91-221, filed Nov. 21, 1991, at 19-20.

17/ *Id.* at 20-21.

18/ Group W Comments Supporting Petition For Reconsideration in MM Dkt. No. 91-140, filed June 25, 1992, at 5.

19/ *Electronic Media*, Aug. 3, 1992, at 3, 21. An NBC owned and operated station is also reportedly producing a children's news program that will be aired by its sister stations. *Id.* at 22.

While these developments continue to support NAB's initial position that all national ownership restrictions be eliminated, several intervening events counsel in favor of a more measured, deliberate and incremental relaxation of these restrictions rather than their total elimination at this time.

First, the experience of the recent radio ownership proceeding strongly suggests that a moderate relaxation of the television ownership rules would be the most politically prudent course to follow.[20] Elimination or excessive relaxation of the national ownership limits by the Commission will be of little benefit to television licensees if accompanied by continuing uncertainty regarding the ownership limits that might ultimately be deemed acceptable.

Second, a more moderate relaxation of the rules would "allow some growth in the size of group owners" while at the same time providing the Commission with "an opportunity to assess over time the benefits and any costs of increased station ownership." *Notice* ¶ 12. In this regard, it appears that seven group owners are approach-

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20/ Statement of Chairman Alfred C. Sikes Re: Reconsideration of Radio Report and Order in MM Dkt. No. 91-140, Aug. 5, 1992 ("The large reduction in the total number of stations that any one entity can own nationwide is a simple function of the fact that we live in a city of shared power. We were asked by key members of Congress to reduce the limit and we did."); Statement of Commissioner Ervin Duggan Re: Reconsideration of Radio Report and Order in MM Dkt. No. 91-140, Aug. 5, 1992 (reduction in allowable radio ownership limits on reconsideration "protects the FCC's goal of regulatory change, while allowing the Commission to move on to other matters — free from rancorous objections from the Congress, and free of suspicion that we have somehow overreached").

ing the current 25 percent audience reach limitation[21/] and ten group owners are at or near the twelve station limit.[22/] Relaxing the current ownership limitations to allow common ownership of 18 stations with an audience reach of 30 percent[23/] would appear to serve both the Commission's and these groups' "goals"[24/] by providing these groups with the needed flexibility either to acquire another small group of stations or to acquire additional individual marginal stations without fear of reaching the ownership limits with such acquisitions, and then being unable to sell them in a soft market if more attractive opportunities become available.

Third, currently pending legislation, if enacted, might change the *status quo* under which only broadcasters are subject to national ownership limitations by imposing a national subscriber limitation on cable.[25/]

21/ *Broadcasting*, March 30, 1992, at 47-49. *Broadcasting* lists six group owners with an audience reach over 18 percent. The seventh group owner listed, Chris Craft Industries, also will exceed an 18 percent reach when its pending acquisition of WWOR-TV is consummated. *Pinelands, Inc.*, FCC 92-376 (rel. Aug. 21, 1992).

22/ NAB estimates ten groups have nine or more television stations.

23/ Raising the audience reach cap from 25 percent to 30 percent is even more modest than it might first appear. Faced with the added competition from cable, other multichannel competitors and more television stations, many stations actually deliver only 20-25 percent of the viewing in their local market (*see The Television Industry: 1992 Market by Market Review*, NAB, 1992). Hence, adding five percent to the allowable *reach* of group owned stations often would only result in a potential of adding 1 to 1.25 percent of television homes to the reach of the largest groups.

24/ *Notice* ¶ 12.

25/ S. 12, 102d Cong., 2d. Sess. § 8 (1992); H.R. 4511, 102d Cong. 2d Sess., § 21 (1992). The Commission's newly adopted network cable ownership rules
(continued...)

As part of its recommendation concerning modifications to the national ownership rule for television, NAB also urges the Commission to maintain its minority preference policies by allowing ownership of up to an additional two stations with an additional five percent audience reach if those stations are minority controlled. Allowing ownership of more stations if they are minority controlled may create additional opportunities for minority ownership and joint venturing, and will address the concerns and arguments of those claiming that the elimination of a preference for minority ownership in the new rules represents an abandonment by the Commission of its commitment to promoting minority ownership and contravenes Congressional mandates.

While urging that minority preferences continue to be reflected in the Commission's ownership rules, NAB believes that expansion of the Commission's tax certificate and distress sales policies and other initiatives to increase the availability of capital in the broadcast industries to minorities[26/] will do even more to advance the cause of minority ownership.[27/]

[25/](...continued)
also place a limitation on the number of homes that can be passed nationally by network owned cable systems. *See* Section 76.501 of the Commission's rules.

[26/] *See, e.g., Notice of Proposed Rule Making and Notice of Inquiry* in MM Dkt.. No. 92-51, 7 FCC Rcd. 2654 (1992).

[27/] *See* NAB Petition For Partial Reconsideration and Clarification in MM Dkt.. No. 91-140, filed May 24, 1992, at 20-22.

B. The United Church of Christ Study Is Incorrect in Concluding that Group Ownership Does Not Result in Improved Local Service

The Commission (*Notice* ¶ 7 n.23) also seeks comment on a study prepared by the Office of Communication of the United Church of Christ ("OC/UCC") and submitted with its comments in response to the *NOI* ("OC/UCC Comments") purporting to contradict the proposition that savings from the efficiencies of group ownership are invested in additional local programming, as well as comment on "the appropriate import to be ascribed to [the OC/UCC] data."

The OC/UCC study claimed to determine the *amount* of news and public affairs programming aired on group and individually owned television stations in *five* randomly selected markets in both 1984 and 1989. Based on its "analysis" of its study OC/UCC "concludes" that group owned stations air mostly nationally syndicated news and public affairs programs and provide less *locally produced public affairs* programming.[28/] From this conclusion, OC/UCC states that savings from efficiencies in group ownership were not invested in *local programming*.

For any number of reasons, the appropriate import to be ascribed to the OC/UCC study is "virtually none." To the extent the study is given any weight, it should be to use the OC/UCC study to support a decision to relax the ownership rules.

28/ OC/UCC Comments at 12-13.

First, as the Commission correctly points out, since OC/UCC's study is based on a sample of only five of the over 200 television markets, there are grave doubts as to the extent it is representative of television stations or markets in general.[29]

Second, the OC/UCC study is fraught with a number of methodological and other problems, not the least of which are:

1. reliance on quantitative measures with no consideration of program quality;
2. apparent omission in counting station newsbreaks;
3. a failure to discuss or provide margins of error; and
4. a failure to account for the tremendous increase in the total amount of information programming being provided as a result in the increase in the number of stations.

A further elaboration of these problems is included in Appendix A hereto, an NAB letter to Senator Daniel K. Inouye dated July 3, 1991, relating to the OC/UCC study. The margin of error problem is particularly relevant to OC/UCC's claim that individually owned stations produced more local public affairs programs, since its study revealed that 2.2 percent of the programming at individually owned stations were public affairs compared with 1.8 percent for group owned stations.[30] Given the probable margin of error, this percentage difference is statistically insignificant.

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[29] *Notice* ¶ 11 n.23.

[30] OC/UCC Comments at Exhibit X.

Third, while not highlighted in its comments, OC/UCC's study revealed a larger percentage of group owned stations' programming was *local* news, than was that of individually owned stations, and a considerably larger percentage of group owned stations' programming was allocated to national news than individually owned stations.[31] Group owned stations also allocated a larger percentage of their schedule to national public affairs than did individually owned stations.[32]

Fourth, a licensee's programming obligations are to provide programming that responds to the needs of its community of license. In assessing compliance with these obligations, the Commission has eschewed reliance on quantitative assessments such as those provided in OC/UCC's study.[33] Moreover, the Commission has stated that "the coverage of local issues does not necessarily have to come from locally produced programming",[34] but can be dealt with "by whatever program mix [a station] believes is appropriate. . .."[35] Hence, OC/UCC's claim that group owned stations are not investing efficiency-based savings in local public affairs programming, but rather in local and national news and national public affairs programs, even if true, is irrelevant. If OC/UCC is suggesting that a group of commonly owned stations

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31/ *Id.* at Exhibit XI.

32/ *Id.* at Exhibit X.

33/ *Television Deregulation*, 98 FCC 2d 1076, 1090 (1984)("The Commission's traditional policy objectives with respect to programming have never been fulfilled by the presentation of mere quantities of specific programming.")

34/ *Id.* at 1085 n.28.

35/ *Id.* at 1092.

producing a syndicated program on AIDS is to be chastised because each station in the group did not produce its own program on AIDS, it has completely misinterpreted both the Commission's mandate for stations' programming obligations and one of the major purposes for relaxing the ownership rules, namely to provide greater opportunities for group financed programming.

Fifth, in satisfying a station's issue responsive programming obligations, it may choose to focus either on broad or narrow audiences, and may "consider the programming of other television stations in its market in fulfilling its programming responsibilities."[36] Accordingly, even if, as OC/UCC claims, group owned stations are choosing to focus more on local news and national public affairs programming, because other stations in the market are providing more local public affairs programming, such a choice has been sanctioned by the Commission.

The OC/UCC comments and study are replete with other inaccuracies, mischaracterizations, and misstatements on other issues, on which the Commission did not seek comment, only a few of which will be briefly addressed here. OC/UCC's characterization of the results of an NAB study which it suggests found that fund raising drives constitute the most frequent response of television stations to issues of public importance is disingenuous. Attached as Appendix B is congressional testimony during which the study was presented, which portrays the massive programming and other efforts undertaken by local stations to address issues of concern to their communities.

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[36] *Id.*

OC/UCC's analysis of increased television advertising revenues despite increasing competition and loss of viewership overstates the percentage increase by *100 percent*.[37] Moreover, OC/UCC's focus on *average* station revenues, rather than *median* revenues, distorts the true financial condition of many smaller market stations by placing undue emphasis on the revenue increases of a few large market stations. For example, *median* net revenues for affiliated and independent stations between 1984 and 1989 only increased 19.6 percent and 13.5 percent respectively[38] as compared to the 47 percent and 19 percent *average* figures cited by OC/UCC. Further, median pre-tax profits for independents and affiliates went from a profit of $227,000 to a loss of $884,000, and from a profit of $1,444,000 to a profit of just $695,000, respectively, between 1984 and 1989.[39]

OC/UCC argues that rising expenses, particularly for syndicated programming, is the cause of declining station profits, rather than the loss of market share, hence relaxation of the ownership rules will not solve the television industry's financial plight. The true answer is that, at least until about 1990, *both* rising expenses and declining share contributed to television's financial difficulties. Moreover, the increasing intrusion of cable into the program syndication market was in part respon-

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[37] *See, e.g.*, OC/UCC Comments at 4 and Exhibit II stating that net revenues for the average affiliate increased 147 percent. The actual increase, from $10.8 million to $15.8 million was 47 percent. All other categories of stations were similarly miscalculated.

[38] *1985 NAB Television Financial Report* ("1985 Report"), Tables 34, 64; *1990 NAB/BCFM Television Financial Report* ("1990 Report"), Tables 33, 64.

[39] 1985 Report, Tables 34, 64; 1990 Report, Tables 33, 64.

sible for rising programming costs and one of the purposes of relaxing the ownership rules is to allow broadcasters more effectively to compete with cable. Enhanced group ownership opportunities can provide groups with a stronger negotiating position in acquiring syndicated programming at lower prices, and can provide greater alternatives for in-house program production. Finally, OC/UCC's projection that "the increased cost of syndicated programming will continue to cause expenses to escalate in the foreseeable future"[40] has already proven inaccurate. In fact, the median station programming and production costs *decreased* from 1990 to 1991, by $7,730 for affiliates and by $576,053 for independent stations.[41]

II. The Commission's Duopoly Rules

In the *Notice*, the Commission addressed two aspects of its contour overlap or duopoly rules. Under the present rules, no one entity may have a cognizable interest in two television stations whose Grade B signal coverage areas overlap. The Commission proposes to narrow the application of its rules to bar only overlap of stations' Grade A coverage areas. The Commission also requests comments on whether it should go further and permit co-ownership of two stations in the same community. We will address these proposals separately.

40/ OC/UCC Comments at iv.

41/ *1991 and 1992 NAB/BCFM Television Financial Reports*, Tables 33, 64.

A. The Commission Should Prohibit Only Grade A Signal Overlaps

As the Commission recognizes, its fixed duopoly rules date from 1964, prior to which it determined contour overlap questions on a case-by-case basis. *See Multiple Ownership*, 45 FCC 1476, *recon.* 3 RR 2d 1554 (1964). Although the Commission initially proposed to bar only overlapping television Grade A signals, the final rule it adopted included Grade B overlaps within the prohibition. Thus, for television, the Commission applied a different standard than it did for radio, where the contours specified in the rules limited prohibited overlaps to areas over which radio stations put out a high quality signal. It based its decision to bar overlaps of lesser quality television signals on two primary factors: the relatively fewer number of television stations and the fact that use of a Grade B overlap standard would "have the effect of limiting future ownership to a maximum of two stations in most states and, thus, will act indirectly to curb regional concentrations of ownership. . . ."[42/]

The television marketplace has undergone radical change in the 28 years since the Commission barred new Grade B overlaps, and the factors which once supported a restrictive duopoly rule do so no more. First, the number of television stations available in most markets has swelled dramatically, which reduces the impact of limited common ownership of stations on the diversity of voices available to any particular household. As the Commission points out, only four percent of households could receive 10 or more over-the-air signals in 1964, while 54 percent of households have at least 10 broadcast television signals available to them today. *Notice* ¶ 17.

[42/] 45 FCC at 1484.

Where only a handful of signals were available to viewers, permitting common ownership of any of those stations could have significantly diminished the opportunity of viewers to receive a diversity of viewpoints. The situation is far different in today's market. Ten television signals provide openings for all networks, several independent stations, and public stations. If one entity controlled two of these stations, the opportunity for viewers to receive diverse viewpoints would still be substantially greater than it was in 1964 when the present rule was adopted.

Further, although some might argue that the Commission must also focus on areas where there are fewer over-the-air television signals available, those areas are frequently near only one city which has television stations, such as parts of the West where television markets are widely separated. Permitting common ownership of stations with Grade B signal overlaps will not affect viewers in those areas since virtually all of the signals which they can receive are from the same community and their Grade A signals overlap.

Since the rule was adopted, cable systems have also developed, serving almost two thirds of all television households.[43/] Cable subscribers now also can receive distant broadcast signals as well as numerous cable programming networks, again adding to the diversity of voices available to most television households.

The number of viewers who could suffer even a theoretical diminution of diversity is also small. If the Grade B signals of two stations in nearby communities

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43/ *TV Digest*, June 29, 1992, at 7 (national cable penetration reached 62.4 percent of all television households).

overlap, the viewers in the area of overlap represent only a small portion of the two stations' total audience. For all of the viewers within the stations' Grade A contours (probably the vast majority of the audience) and most of the viewers in their Grade B contours, there will be no joint ownership of the stations that they receive. Therefore, there is no legitimate diversity-based rationale for continuing to prohibit Grade B contour overlaps of jointly controlled stations.

Indeed, the public interest strongly supports approval of such arrangements. In 1991, 48.9 percent of the average television station's expenditures were for program production and news.[44/] Where two stations serve nearby areas, they will be able to share the cost of some news and other program production expenses. For example, if one entity owns stations in two adjacent markets, the stations may be able to share the cost of a satellite ENG truck, a cost saving which would not be practical for two commonly-owned stations in widely separated markets. Further, if the two stations serve the same state, they could achieve efficiencies in reporting on national and state-wide developments. While one station might not be able to justify the cost of sending reporters to Washington or to national political conventions, or to have a permanent reporter in the state capital, the opportunity to produce stories usable on two stations might make the expenditure worthwhile, increasing the quality of both stations' news operations. Other efficiencies may be achieved in coordinating or combining sales and administrative operations or using some specialized personnel to service both stations.

44/ *NAB/BCFM 1992 Television Financial Report* at vi.